

**Kenneth Boehm
Director
Farm Business Council
4933 N. 34th Street
Arlington, VA 22207**

VIA FACSIMILE: 202-616-9937

January 24, 2002

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, D.C. 20530

Re: Public Comment on the Microsoft Settlement

Dear Renata Hesse:

Pursuant to the provisions of the Tunney Act, I am writing to comment on the proposed settlement in the Microsoft anti-trust case.

As an attorney and someone who has followed this case in the media from the onset, it's quite clear that the legal case was driven by Microsoft competitors seeking financial advantage. The detailed coverage of the case in *Wired* and other publications outlined a highly politicized effort by Microsoft's competitors which appears more motivated by a desire to break up Microsoft than to demonstrate any economic harm to the public.

In addition to a strong belief that using government to obtain what cannot be obtained in the free market is an abuse of government, I view my own experience with computers as evidence as to the hollowness of the cries of "monopoly" by the Microsoft competitors. For the last ten years I have exclusively used Apple computers and cannot think of anything Microsoft has done that remotely has harmed me economically in any way.

The settlement seems overly harsh to Microsoft insofar as it allows the very same competitors who lobbied for the lawsuit to abuse the terms of the settlement to frustrate any number of future Microsoft technical developments. The recent reaction of these competitors to the release of Windows XP indicates that they have no reluctance to use government to undercut their competition. Unfortunately, the settlement appears to provide a means for future harassment of Microsoft in the guise of holding Microsoft to the terms of the settlement.

Ultimately, the consumer benefits most from a legal environment that encourages and rewards technical advances. To the extent that Microsoft competitors have shown a predisposition to use government to delay or attack Microsoft's technical advances, the consumer is the loser to the degree the settlement facilitates such actions.

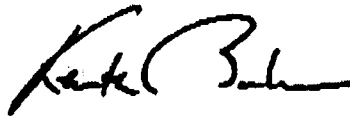
Despite my view that the anti-trust action and the proposed settlement are unfair to Microsoft, I reluctantly support the settlement to get the entire matter resolved. In the context of an economy in recession, it's hard to imagine a more indefensible policy than using government action to try to break up one of the most successful companies in the country.

The settlement appears to fully address many of the limited concerns about the ability of computer firms to remove or replace Microsoft middleware (browsers, instant messaging tools, et al.). Similarly it also appears to allow end users to very readily remove or replace such middleware.

The settlement also allows for an independent Technical Committee to make sure the settlement is followed. This unprecedented step should answer any qualms as to enforcement although this untried approach may result in unfairly limiting Microsoft's ability to promote important innovations that work well with its existing software.

In the final analysis, our prosperity is dependent on innovation and property rights which reward innovation. The real test for the settlement will be whether it is abused by Microsoft competitors in an effort to tear down their competitor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Boehm', written in a cursive style.

Kenneth Boehm, Esq.